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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

ANNETTE BLANCHARD,

Plaintiff,

v.

FREMONT HOME LOAN TRUST 2005-
D acting solely for HSBC Bank, USA,
NA; et al.,

Defendants.

Case No.: C17-415 RSM

ORDER OF DISMISSAL

This matter came before the Court on February 16, 2018 on Defendants Fremont Home Loan Trust 2005-d acting solely for HSBC Bank, USA, N.A. ("Fremont"), Ocwen Loan Servicing, LLC ("Ocwen"), Litton Loan Servicing LP ("Litton") and Mortgage Electronic Registration Systems, Inc. ("MERS") (hereafter collectively "Defendants")'s Motion to Dismiss. Dkt. #16. Defendants request dismissal of Plaintiff's complaint pursuant to FRCP 4(m), FRCP 12(b)(1), FRCP 12(b)(2), FRCP 12(b)(5) and FRCP 12(b)(6). *Id.* Defendants request dismissal for lack of and insufficiency of service of process pursuant to FRCP 4(m) and FRCP 12(b)(5) as a result of Plaintiff's failure to effectuate service of process under FRCP 4. *Id.* Defendants request dismissal for lack of personal jurisdiction pursuant to FRCP 12(b)(2) as a result of the lack of service of process. *Id.* Defendants request dismissal for lack of subject matter jurisdiction


1 pursuant to FRCP 12(b)(1) due to the lack of diversity between Plaintiff and defendant Fidelity
2 National Title Company of Washington (“Fidelity”) as they are both domiciled in the State of
3 Washington and the Plaintiff’s assert claims under federal law. *Id.* Defendants request dismissal
4 for failure to state a claim upon which relief can be granted pursuant to FRCP 12(b)(6) due to
5 Plaintiff’s complaint not meeting the burden required to state a claim. Plaintiff has failed to
6 respond to the instant Motion.

7 The Court considers Plaintiff’s failure to timely file an opposition to this Motion as an
8 admission that the Motion has merit. *See* LCR 7(b)(2). The Court finds that Defendants have
9 established that Plaintiff has failed to properly effectuate service of process on any and all
10 defendants within 90 days of filing her complaint and therefore this Court lacks personal
11 jurisdiction. Plaintiff has failed to establish good cause for the delay and lack of service of
12 process. The Court also finds that Defendants have established that diversity is lacking between
13 Fidelity and Plaintiff, and the Court therefore lacks diversity jurisdiction. The Court also finds
14 that Defendants have established that Plaintiff’s complaint fails to meet the requirements to state a
15 claim upon which relief can be granted.

16 As this is second time that Plaintiff has brought these claims before this Court, and the
17 deficiencies from her previous filings have not been remedied in Plaintiff’s Complaint upon filing
18 this action, it is clear that amendment could not cure the defects, and the Court declines to grant
19 further leave to amend. *See Lucas v. Dep’t of Corr.*, 66 F. 3d 245, 248 (9th Cir. 1995).

20 Having reviewed the Complaint and the Motion to Dismiss, the Court hereby finds and
21 Orders that this case is DISMISSED with prejudice and without leave to amend for lack of
22 personal jurisdiction, subject matter jurisdiction and failure to state a claim upon which relief can
23 be granted.

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2 Dated this 26 day of February 2018.

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5 RICARDO S. MARTINEZ
6 CHIEF UNITED STATES DISTRICT JUDGE
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